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1 The EPS rating information is as follows: Complaint Filed: July 15, 2016. Response Filed by  
Progress United PAC: October 28, 2016. Progress United indicated that it would not be filing an additional response,  
and that the PAC's response represents its views.

<sup>2</sup> The PAC is an independent-expenditure-only political committee that registered with the Commission on May 2, 2016. A search of the Virginia Department of Elections and the New Jersey Election Law Enforcement Commission

1-851-244-071

1 The Complaint alleges that the PAC failed to file 48-hour notices of independent  
2 expenditures related to web and radio ads, which ran the week of May 9, 2016.<sup>3</sup> Compl. at 2. Also,  
3 the Complaint alleges that the PAC did not include a proper disclaimer on these communications.  
4 *Id.* at 2, 3. The Complaint attached a screenshot from the webpage, which features a picture of a  
5 state assemblyman with the caption "A Bailout for Atlantic City Politicians." Compl. Attach. 1.  
6 The assemblyman is not a candidate for federal office.

7 The PAC argues that at the time of its Response, it had not disseminated any  
8 communications in connection with any election.<sup>4</sup> Comp. Resp. at 1. The PAC states that it was not  
9 responsible for any of the activities referred to in the Complaint; instead, a separate social welfare  
10 organization called Progress United was responsible. The PAC states that Progress United was  
11 organized under Section 501(c)(4) of the Internal Revenue Code.<sup>5</sup> *Id.* at 1-2. The PAC also states  
12 that the activities referred to in the Complaint were issue advertisements related solely to non-federal  
13 issues in New Jersey, and did not refer to any federal candidate or any election. *Id.* at 2.

14 In relevant part, an independent expenditure is an expenditure advocating for the election or  
15 defeat of a clearly identified candidate for federal office.<sup>6</sup> If an entity makes independent

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databases found no results for any entities named "Progress United." <http://cfreports.sbe.virginia.gov/>,  
<http://www.elec.state.nj.us/publicinformation/searchdatabase.htm>.

<sup>3</sup> The Complaint includes an attachment of a web advertisement, but we were not able to locate the alleged radio advertisements, which allegedly supported Progress United's position.

<sup>4</sup> This statement appears to be accurate. *See* Progress United PAC July Quarterly Report, filed July 6, 2016, Progress United PAC October Quarterly Report, filed October 3, 2016, and Progress United PAC Post-General Report, filed November 30, 2016. However, the PAC appears to have begun disseminating communications the day after filing its Response. *See* Progress United PAC 24-Hour Reports of Independent Expenditures, dated October 29, 2016, October 31, 2016 (2), November 2, 2016, November 3, 2016, reporting independent expenditures made in opposition of Arthur L. Halvorson, a candidate for U.S. House of Representatives in Pennsylvania's Ninth District.

<sup>5</sup> The Response includes a copy of the Internal Revenue Service Form 8976 that Progress United filed on August 5, 2016, registering it as a social welfare organization. We note that although Progress United and the PAC are two different entities, Progress United's address registered with the I.R.S. is the same address as the PAC's treasurer, Joseph Aiken, as provided in the PAC's Statement of Organization.

<sup>6</sup> 52 U.S.C. § 30101(2), (17)(A).

1 expenditures aggregating \$10,000 or more with respect to a given election at any time up to and  
2 including the 20th day before the date of an election, the entity must file a 48-Hour Report  
3 disclosing those expenditures.<sup>7</sup> Whenever a political committee makes a disbursement for a  
4 communication through a mailing or general public political advertising, the Act and Commission  
5 regulations require that the communication shall clearly state that it has been paid for by the  
6 committee.<sup>8</sup> *See also* 11 C.F.R. § 110.11(a)(1), (b)(1), (c)(1).

7 We recommend the Commission find no reason to believe as to the PAC because it does not  
8 appear to be responsible for the activity mentioned in the Complaint. We also recommend that the  
9 Commission find no reason to believe as to Progress United. There is no available information that  
10 Progress United's communications mentioned a federal candidate or that Progress United qualifies  
11 as a political committee. Therefore, there was no requirement under the Act that Progress United  
12 file an independent expenditure report or include a disclaimer on its advertisements.<sup>9</sup> We also  
13 recommend that the Commission approve the attached Factual and Legal Analyses, and close the file  
14 as to all respondents.  
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<sup>7</sup> 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 109.10(c). The entity must file additional reports within 48 hours after each time it makes or contracts to make independent expenditures aggregating an additional \$10,000. *Id.*

<sup>8</sup> 52 U.S.C. § 30120(a)(1). *See also* 11 C.F.R. § 110.11(a)(1), (b)(1). Additionally, websites of political committees available to the general public must include a disclaimer clearly stating who paid for the communication. 11 C.F.R. § 110.11(a)(1).

<sup>9</sup> 52 U.S.C. § 30101(2), (4). As the website does not expressly advocate for the election or defeat of a clearly identified federal candidate, Progress United was not required to file an independent expenditure report with the Commission or attach a disclaimer to its advertisement. *See* 11 C.F.R. § 110.11(a)(2).

**RECOMMENDATIONS**

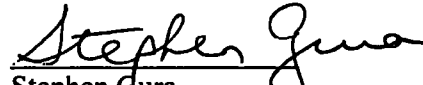
1. Find no reason to believe that Progress United, Progress United PAC and Joseph Aiken, in his official capacity as treasurer, violated the Act and Commission regulations;
2. Approve the attached Factual and Legal Analyses and the appropriate letters; and
3. Close the file as to all respondents.


Lisa J. Stevenson  
General Counsel

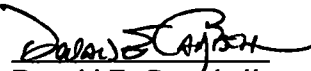
Kathleen M. Guith  
Associate General Counsel

4.19.17  
Date

BY:

  
Stephen Gura  
Deputy Associate General Counsel

  
Jeff S. Jordan  
Assistant General Counsel

  
Donald E. Campbell  
Attorney

Attachment:  
Factual and Legal Analyses